

**MINUTES OF THE
GREENSBORO BOARD OF ADJUSTMENT
JULY 28, 2008**

A regular meeting of the Greensboro Board of Adjustment was held on Monday, July 28, 2008 at 2:00 p.m. in the City Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair John Cross, Rick Pinto, Michael Schiftan, Ryan Shell, Scott Brewington and Clinton Turner. Staff present were: Loray Averett, Zoning Services Coordinator, Rawls Howard, Zoning Administrator, as well as Jerry Kontos, City Attorney's Office.

Chair Cross called the meeting to order and explained the policies and procedures of the Board of Adjustment. He further explained the manner in which the Board conducts its hearings and the method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES OF LAST MEETING

Mr. Schiftan moved to approve the minutes of the June 23, 2008 meeting minutes as submitted, seconded by Mr. Turner. The Board voted 6-0 in favor of the motion. (Ayes: Cross, Pinto, Schiftan, Shell, Turner and Brewington. Nays: None.)

NEW BUSINESS

VARIANCE

Mr. Cross and Mr. Brewington stated that they would need to be recused from the following item. Mr. Pinto moved to recuse both members, seconded by Mr. Schiftan. The Board voted 4-0-2 in favor of the motion. (Ayes: Pinto, Shell, Schiftan and Turner. Nays: None. Abstained: Cross and Brewington)

A) BOA-08-21: 3401 DOGWOOD DRIVE RICKY BOTT REQUESTS A VARIANCE FROM A SIDE STREET SETBACK REQUIREMENT. VIOLATION: AN EXISTING ATTACHED CARPORT (WHICH WAS RECENTLY CONSTRUCTED), ENCROACHES 13.5 FEET INTO A 15-FOOT SIDE SETBACK FROM BEVERLY PLACE. TABLE 30-4-6-1, PRESENT ZONING-RS-12, BS-47, CROSS STREET-BEVERLY PLACE. (CONTINUED)

Chair Cross stated that there were two Board members who would be disqualified from hearing this matter and asked Mr. Fruth and the City Attorney if the matter should be continued as there would only be four members available to vote on the matter.

Mr. Fruth stated that he would like for the item to be continued and asked that the Stop Work Order be lifted so they can put shingles on the structure to preserve the work that has already been done. They would not expend any more resources for materials.

Mr. Cross stated that Mr. Fruth would have to speak with staff on lifting the Stop Work Order as that is not something that the Board could make a decision on.

Mr. Pinto moved to continue the request to the August meeting based on the fact that there are only four members who could participate in discussions of the matter, seconded by Mr. Schiftan. The Board voted 4-0-2 in favor of the motion. (Ayes: Pinto, Shell, Schiftan and Turner. Nays: None. Abstained: Cross and Brewington)

SWEARING IN OF STAFF

Staff was sworn in for items addressed on the agenda.

- (B) BOA-08-22: 7 WOODSTREAM LANE MID-AMERICAN APARTMENTS REQUEST A VARIANCE FROM THE MAXIMUM SIGN HEIGHT REQUIREMENT. VIOLATION: A PROPOSED FREESTANDING SIGN WILL EXCEED THE MAXIMUM HEIGHT (WHICH IS 6 FEET) BY 4.20 FEET, FOR A TOTAL HEIGHT OF 10.20 FEET. TABLE 30-5-5-2, SECTION 30-5-5.7(C), AND SECTION 30-4-4.3(F)(5), PRESENT ZONING-CD-RM-18, BS-220, CROSS STREET-WEST FRIENDLY AVENUE. (GRANTED WITH CONDITION)**

Mr. Howard stated that Mid America Apartments is the owner of the property located at 7 Woodstream Lane, which contains Woodstream Apartments. The applicant is proposing to allow a freestanding identification sign to exceed the maximum height of 6 feet by 4.20 feet, for a total of height of 10.20 feet. The property is located on the south side of West Friendly Avenue, west of Stage Coach Trail on zoning map block sheet 220. Tax records indicate the property was developed in 1983. The property acreage is approximately 19.97 acres and contains 304 multifamily dwelling units. The property is currently zoned CD-RM-18 and is also located in the Scenic Corridor Overlay District-2. This zoning allows for freestanding development entrance signs to be 6 feet tall. The applicant is proposing to remove an existing development entrance sign which is currently located in the median of Woodstream Lane, and to place a new identification sign on the property adjacent to West Friendly Avenue. The applicant has made mention that due to recent roadway widening for this portion of West Friendly Avenue, along with the bridge installation, sign visibility is restricted for traveling motorists. Also, NCDOT has a fence along their right-of-way adjacent to this portion of the applicant's property. The sign will actually be twelve feet tall; however, if the property grade is below street grade, the Ordinance allows the sign height to be measured from the adjacent street grade. Based on that provision, the property elevation is shown to be 1.80 feet below the street elevation, thus the sign height is considered to be 10.20 feet tall and not 12 feet tall. The new sign will contain 48 square feet. It is classified as a development entrance sign and may contain the name of the development and the management company and no other identifying or advertising message. The RM-18, Residential Multifamily District is primarily intended to accommodate multifamily uses at a density of 18.0 units per acre or less.

Alan Wilson, Wilson Land Surveyors, 402 Blandwood Avenue, was sworn in and stated that the major concern for this project is visibility related to the Outer Loop which runs parallel to this property and has created a big change to the property. Headed west toward the airport, after coming out from under the bridge, it is difficult to see the apartment complex on the left. Previously there was an entrance to the apartment complex but due to the construction of the Outer Loop, DOT had to do away with that entrance and move it down further to the west of the property. There is an easement through another property to access their property. There is a lot of visibility blockage due to trees and vegetation and because of the widening of Friendly Avenue it has changed this area. There is also a fence which was installed by DOT that blocks visibility to the property. They want to install a sign that would be very visible and would go above that fence. There are a lot of variables that affect the entire visibility of this property. The existing sign, which is in the entrance to the property, is no more than 4 feet high.

Melissa Sceronie, 101 Lee Circle, Greer, South Carolina, was sworn in and stated that she is the temporary property manager for Woodstream Apartments. She presented photographs for the Board members' review to help clarify the property and the signage and explained that the land is lower and with a 6 foot fence installed, that fence would cover the sign from being seen from the road.

Ms. Averett pointed out that the sign has to be on the applicant's property and could not be located on the adjacent property.

The Board members commented that it seems that the actions of the DOT seems to be the major cause of the problem on this property making it difficult for the property owners to advertise their apartment complex and making it difficult for the public to find the complex. .

After much discussion, Mr. Pinto moved that in regard to BOA-08-22, 7 Woodstream Lane, the stated findings of fact be incorporated and the Zoning Enforcement Officer be overruled and the variance granted with the condition that instead of allowing the height to exceed the maximum height of 6 feet by 4.2 feet, the applicant be allowed to exceed the maximum height of 6 feet by 2.7 feet for a total height of 8.7 feet, based on the following findings of fact: There are practical difficulties or unnecessary hardships that result from carrying out the strict letter of the ordinance. If the applicant complies with the provisions of the ordinance no reasonable use can be made of the property as a portion of the property including the entrance to their apartment complex, were taken by the DOT when it completed road work in the immediate area and the width of Friendly Avenue was extended. As a result of that road construction and the taking by the state, the entrance to Woodstream Apartments is now through a right-of-way through an adjacent neighbor's property. It would be impractical to have an entrance sign at the adjacent property because the neighbor would not deed the property to Woodstream Apartments. Therefore, the applicant cannot put a sign at that point. Additionally, the state has erected a fence which is slightly under 4 feet around the majority of the property that fronts on Friendly Avenue which prevents people from seeing the sign that was below that level. Additionally, there is a 1.8 foot gully off of the road and is lower than the street level, making it difficult to see a sign that would be limited to 6 feet in height. The hardship of which the applicant complains result from these unique circumstances and are not the result of the applicant's own actions as previously described. The variance is in harmony with the general purpose and intent of the ordinance and this Board has considered the nature and intent of sign ordinances and attempted to come up with a compromise such that the property owner could have a sign to advertise their property so the motoring public can see them, but still keep it at a minimum so it is not unsightly. The granting of the variance assures public safety and welfare and does substantial justice as previously stated, seconded by Mr. Brewington. The Board voted 6-0 in favor of the motion. (Ayes: Cross, Pinto, Brewington, Turner, Schiftan and Shell. Nays: None.).

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OTHER BUSINESS:

Mr. Rawls stated that he has contacted Richard Ducker with the Institute of Government in regard to the training session planned for the Board. He is still trying to formulate an appropriate date and feels that the training session will probably be in November.

Counsel Kontos stated that he would start compiling information in reference to the Rules of Procedure and will forward another draft to the Board members in the near future. He also pointed out that when a member is recused from a matter, that Board member should leave the dais and should make no comments during the hearing of that particular case.

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There being no further business before the Board, the meeting adjourned at 3:03 p.m.

Respectfully submitted,

John Cross, Chairman
Greensboro Board of Adjustment

JC/jd